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AT&T WIRELESS SERVICES, INC.

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JAN 27 2005

ALAN SLATER, Clerk of the Court

BY: ENRIQUE VELOZ, DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

SUSANNE BALL, On Behalf of the General Public,

Plaintiff,

v.

AT&T WIRELESS SERVICES, INC. a Corporation,

Defendant.

) Case No. 04CC06385
) Assigned for All Purposes to
) Honorable Steven L. Perk
) Department C27
)

) **DECLARATION OF NEXTEL
) COMMUNICATIONS, INC. IN
) SUPPORT OF MOTION OF
) CINGULAR WIRELESS LLC
) TO COMPEL ARBITRATION
) OF PLAINTIFF'S CLAIMS AND
) MOTION FOR STAY PENDING
) ARBITRATION**

) [Notice of Motion and Motion;
) Memorandum of Points and
) Authorities; Request for Judicial
) Notice; Non-California Authorities;
) Declarations of James C. Grant and
) Sarah K. Kohut filed concurrently]
)

) **Date: February 18, 2005**
) **Time: 11:00 a.m.**
) **Dept.: C27**
)

) **Trial Date: May 23, 2005**
) **Complaint Filed: May 27, 2004**
)

1 I, Susan Z. Haller, declare as follows:

2 1. I am the Deputy General Counsel of Nextel Communications, Inc. ("Nextel"), a
3 Delaware corporation, and have been duly authorized by Nextel to make this declaration on its
4 behalf. I am over the age of 18 years old. I have personal knowledge of each of the following
5 facts and, if called and sworn as a witness, I would competently testify to those facts.

6 2. Nextel, through its wholly owned subsidiaries, is a provider of fully integrated
7 wireless communications services. Nextel, through its operating subsidiary, has been offering
8 digital wireless service in California since 1993.

9 3. I am familiar with the manner in which Nextel maintains its business records. I
10 have reviewed Nextel's business records and located the subscriber agreement applicable to
11 consumers who signed up for Nextel wireless service in California in July 2001 (the "Subscriber
12 Agreement"). The terms and conditions contained in the Subscriber Agreement did not contain
13 an arbitration provision. Attached hereto as Exhibit A is a true and correct copy of Nextel's
14 Subscriber Agreement that was in effect in California in July 2001. The Subscriber Agreement
15 was prepared by Nextel personnel in the ordinary course of business at or near the date appearing
16 on that Subscriber Agreement.

17 4. None of the subscriber agreements applicable to consumers who signed up for
18 Nextel wireless service, through any Nextel operating subsidiary, contained an arbitration
19 provision prior to November 2003.

20 I declare, under the penalty of perjury under the laws of the State of California that these
21 facts are true and correct and that this Declaration is executed this 26th day of January 2005, at
22 Reston, Virginia.

23 
24 Susan Z. Haller
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EXHIBIT A



Subscriber Agreement

Case 5:07-cv-05152-JW Document 118-4 Filed 06/27/2008 Page 4 of 5

NETWORK SERVICES							EQUIPMENT	
No. of Units	Rate Plan	Discount	Promo Code	Monthly Access		No. of Units Purchased	Product Description (Indicate phone color if applicable)	
				Per Unit	Monthly Total			
				\$	\$			
				\$	\$			
				\$	\$			
	One-time Activation Fee (if applicable)			\$	\$			
	TOTAL ▲				\$			

[illegible]

Talkgroup Aliases	S	#	#						
Comments									Third Party Application Notes

SERVICE AUTHORIZATION: The person or entity described above (the "Customer") requests good hourly telephone service and, if selected by Customer, carrier data, information and email services (collectively, "Services") from the Company. The Customer hereby agrees to the terms and conditions stated on the face and reverse of this form and to the fact that the Company will not be responsible for any loss or damage that may be required pending credit review. The Company reserves the right to terminate this agreement at any time without notice.

Subscriber Agreement on behalf of the Customer

Customer Signature _____ Title _____ Date _____ Time _____

Customer Print Name _____ E-mail Address _____ Phone # { } _____

101-5523.003 White - Order Entry Yellow - File Copy Pink - Customer Copy

In consideration of the same and the mutual covenants and conditions hereinafter set forth, the parties agree as follows:

SECTION 2 APPLIES TO GEORGIA AND ALABAMA CUSTOMERS ONLY

[illegible]

5. **CUSTOMER'S RADIO EQUIPMENT.** Company is not responsible for the installation, operation, quality of transmission, or maintenance of the Equipment. Any change in Service or Equipment may require additional programming at Equipment or changes to software or changes to software programming. Less Company reserves the right to change in transceiver frequencies, codes and/or numbers when such change is reasonably necessary in the conduct of its business. Customer shall not have any proprietary interest in such codes or numbers. Although Federal and state laws may make it illegal for the parties to listen in on a service, complete privacy cannot be guaranteed. Company shall not be liable to Customer or to any third party for any eavesdropping on or interception of communications from Company's System.

6. **MULTI-TELEPHONE SERVICES.** Nextel Online Services, consisting of certain applications such as email, data, information and other wireless internet services (the "Applications"), are part of the Services that can be obtained through Company. Certain Applications offered by Company or authorized third parties may be compatible with the Equipment and/or the Service offered by Company. Customer acknowledges and agrees that there is no guarantee or assurance that the Applications are compatible, or will continue to be compatible, with Company's System or any of its Equipment or Service offerings. Such compatibility or approval from Company of compatibility shall not be construed as an endorsement of a particular Application or a commitment on the part of Company that Applications will continue to be compatible with the System. Equipment or Service for any period of time. Company reserves the right, in its sole discretion, to disable or discontinue any Application for any reason. Use of Nextel Online Services requires a wireless internet compatible phone, and is subject to any state, federal, or other Equipment limitations. Only certain internet uses may be accessed, and certain Nextel Online Services may not be available in all Company Service areas.

4. **CONTENT INTELLECTUAL PROPERTY RIGHTS.** Company is not a publisher of third party content that Customer may find from time to time across applications, News, Online Services, thirdline Company is not responsible for the content provided by such third parties, including but not limited to statements, opinions, practices, policies, services and other information ("Content"), and accessed by Customer through News, Online Services, Company does not guarantee or warrant as to the currency, accuracy, completeness or utility of Content obtained through News Online Services. Customer provides and agrees have proprietary materials in certain Content. Customers that post, use, permit others to reproduce, broadcast, distribute, sell, publish, communicate publicly or otherwise disseminate such Content in any manner without Company's prior written consent shall be liable to Company for such Content as well as for any other such communications.

[illegible]

NOTES ON CONTRIBUTORS